

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MONTY MARCH and LINDA PRATKA, on
Behalf of Themselves and All Others Similarly
Situated,

Plaintiffs,

v.

REAL ESTATE BOARD OF NEW YORK,
INC.; BROWN HARRIS STEVENS
RESIDENTIAL SALES, LLC; CHRISTIE'S
INTERNATIONAL REAL ESTATE LLC;
COLDWELL BANKER REAL ESTATE LLC;
COMPASS, INC.; CORE GROUP
MARKETING LLC; THE CORCORAN
GROUP, INC; THE CORCORAN GROUP
LLC; DOUGLAS ELLIMAN, INC.;
ELEGAN LLC D/B/A ELEGAN REAL
ESTATE; ENGEL & VÖLKERS NEW YORK
REAL ESTATE LLC; FOX RESIDENTIAL
GROUP, INC; HALSTEAD MANHATTAN,
LLC; TRIBECCA MARKET CENTER LLC
D/B/A KELLER WILLIAMS NYC; LESLIE J.
GARFIELD & CO. INC.; LEVEL GROUP
INC.; TDG-TREGNY LLC D/B/A M.N.S.;
MODERN SPACES, LLC; SUITEY, INC.
D/B/A THE AGENCY; THE MODLIN
GROUP LLC; NEST SEEKERS LLC D/B/A
NEST SEEKERS INTERNATIONAL; R NEW
YORK REAL ESTATE LLC D/B/A R NEW
YORK; RE/MAX LLC; SERHANT LLC;
SLOANE SQUARE LLC; and SOTHEBY'S
INTERNATIONAL REALTY AFFILIATES
LLC,

Defendants.

Case No. 23-cv-09995-JGLC (RWL)

**STIPULATION AND ORDER TO
STAY PROCEEDINGS**

WHEREAS, Fox Residential Group (“Fox”) is a defendant in *March et al v. The Real Estate Board of New York, Inc., et al.*, Case No. 23-cv-09995 JGLC (RWL) (“March”);

WHEREAS, on November 27, 2024, in *Burnett, et al. v. The National Association of Realtors, et al.*, Case No. 4:19-cv-00332, the United States District Court for the Western District of Missouri granted final approval of a class settlement with the National Association of Realtors (“NAR”), overruling the objections to the settlement by Plaintiffs in the *March* and *Friedman* actions (collectively, “Plaintiffs”). See *Burnett* ECF 1622 (the “Final Approval Order”);

WHEREAS, Fox contends that Plaintiffs’ claims against it are released by the Final Approval Order;

WHEREAS, Plaintiffs dispute that the Final Approval Order applies to Fox or releases Plaintiffs’ claims against Fox;

WHEREAS, in the Final Approval Order, the Western District of Missouri certified the following settlement class regarding the NAR settlement, which includes:

All persons who sold a home that was listed on a multiple listing service anywhere in the United States where a commission was paid to any brokerage in connection with the sale of the home in the following date ranges: . . .

For all other homes: October 31, 2019 to date of Class Notice.

Final Approval Order, ¶ 8.

WHEREAS, the Final Approval Order provides, in pertinent part, as follows:

Members of the Settlement Class, unless they excluded themselves from the Settlement Class, are hereby enjoined from filing, commencing, prosecuting, intervening in, or pursuing as a plaintiff or class member any Released Claims against any of the Released Parties. . . . Released Claims include claims that arise from or relate to conduct that was alleged or could have been alleged in the Actions based on any or all of the same factual predicates for the claims alleged in the Actions, including but not limited to commissions negotiated, offered, obtained, or paid to brokerages in connection with the sale of any residential home. For the avoidance of doubt,

this injunction extends to claims arising from or relating to transactions where Settlement Class Members either sold or purchased a home on any MLS nationwide, regardless of affiliation or association with NAR or not, and thus includes, *e.g.*, NWMLS, WPMLS, and REBNY/RLS.

Final Approval Order, ¶ 168 (internal citations omitted).

WHEREAS, counsel for Fox have met and conferred with counsel for Plaintiffs regarding the impact of the Final Approval Order on the *March* case.

WHEREAS, March filed a notice of appeal from the Final Approval Order on December 2, 2024 (*See Burnett* ECF 1630).

WHEREAS, the deadline to file notices of appeal from the Final Approval Order is December 27, 2024.

WHEREAS, despite disputing the applicability of the NAR settlement and the Final Approval Order to the claims at issue in *March*, Plaintiffs and Fox (collectively, the “Parties”) agree that it is appropriate and will serve the interests of justice to administratively stay the *March* action as to Fox and affiliated brokerages until the resolution of Plaintiffs’ appeals to the Eighth Circuit Court of Appeals from the Final Approval Order.

WHEREAS, the Parties acknowledge that this Agreement exclusively applies to the Parties and cannot be used by any other person for any purpose.

WHEREAS, Plaintiffs’ entry into this Stipulation does not constitute an admission concerning the applicability of the Final Approval Order to their claims, and Plaintiffs and Fox reserve all rights; and

NOW, THEREFORE, the Parties respectfully request that the Court administratively stay this action as to Fox, future appearances, requests, and/or other case related obligations as to Fox until the resolution of Plaintiffs’ appeals to the Eighth Circuit Court of Appeals from the Final Approval Order.

Plaintiffs and Fox will not be bound by, nor will Plaintiffs and Fox argue that, any rulings, findings, decisions, or judgments, including any case management order in *March* during the stipulated stay apply to Fox, whether based on claim preclusion, issue preclusion, or otherwise.

The Parties further agree that they shall submit a joint status report within ten (10) days after the resolution of the Plaintiffs' appeals to the Eighth Circuit Court of Appeals from the Final Approval Order.

Dated: December 9, 2024

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Dated March 19, 2025

SO ORDERED



HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE